

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING ENTRY INTO A STIPULATION FOR SETTLEMENT OF THE CASE OF TEEN CHALLENGE OF FLORIDA, INC. VS. THE TOWN OF DAVIE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Teen Challenge of Florida, Inc. has filed an action against the Town of Davie in the Circuit Court in and for Broward County, Florida, under Case No. 96-13022(21); and

WHEREAS, the Florida League of Cities has provided a defense to the action in accordance with their risk management contract with the Town of Davie; and

WHEREAS, the Florida League of Cities (FLC) has recommended settlement of the above-referenced litigation by FLC's payment to Teen Challenge, Inc. of the sum of \$57,000.00 and the entry without appeal of the attached Partial Final Judgment granting declaratory and injunctive relief.

WHEREAS, the Town Council deems it in the best interest of the Town of Davie to settle the above-referenced litigation in accordance with said stipulation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The appropriate Town officials are hereby authorized to take all necessary actions to implement the settlement of this action as described above.

SECTION 2. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 1999.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 1999.

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

TEEN CHALLENGE OF FLORIDA, INC.,
a Florida Corporation,

CASE NO. 96-13022 (21)

Plaintiff,

Judge: Miette K. Burnstein

vs.

TOWN OF DAVIE,

Defendant.

**PARTIAL FINAL JUDGMENT GRANTING
DECLARATORY AND INJUNCTIVE RELIEF**

Counts I, II, IV and V were tried before the Court on January 27 -28, 1999. On the evidence presented:

IT IS ADJUDGED

. Teen Challenge of Florida, Inc. (hereinafter "Teen Challenge") is an international, inter-denominational, non profit, religiously based program operating programs in more than 120 locations in the United States, with more than 175 residences worldwide.

. Teen Challenge establishes facilities within which it provides residential programs for those who have in their past experienced life controlling problems including, but not limited to, drug and/or alcohol abuse; physical abuse from others; and loss of family support.

. During 1995, Teen Challenge sought to purchase real property located in the Town of Davie for the purpose of operating a residential program for adult women. In October 1995, Teen Challenge became interested in purchasing a parcel of real property improved for the single family home and located at 13601 S.W. 26th Street, Davie, Florida 33325 (hereinafter "Subject Property"). The Subject Property was located in the Town of Davie's R-1 (single family) zoning district.

. Prior to purchasing the Subject Property, Teen Challenge wrote a letter to the officials of the Town of Davie, specifically identifying the Subject Property, stating Teen Challenge's intended use of the Subject Property and requesting written confirmation that Teen Challenge would be able to occupy and use the Subject Property to operate a residential program for up to sixteen adult women.

. On October 17, 1995, the Town of Davie, by its Director of Planning and Zoning, issued a letter to Teen Challenge. The letter was signed by both the Director of Planning and Zoning, and the Senior Planner, stating the "Teen Challenge's proposal to open a group home up to 16 women residents . . . would be a permitted use at the above-referenced property zoned R-1". The issuance of the October 17, 1995 letter was a lawful act performed by Town of Davie officials acting within the scope of their responsibility and authority.

. The officials that issued the October 17, 1995 letter both testified that they knew what Teen Challenge intended to do with the property, believed that it was a proper use pursuant to the Town's comprehensive plan and land use ordinances, and knew that Teen Challenge was relying upon their representations to move forward with the purchase of the Subject Property.

. In addition, the officials of Teen Challenge, met with Matt Wood, a senior zoning planner, representing the zoning department of the Town of Davie. At that time, Mr. Wood again affirmed that Teen Challenge's proposed facility located at the Subject Property, would be permitted as a "Special Residential Facility category II" which would be a permitted use pursuant to the Town of Davie's Zoning Ordinances.

. Relying upon the Town of Davie's October 17, 1995 correspondence, Teen Challenge expended approximately \$200,000.00 to purchase the Subject Property.

. Relying upon the Town of Davie's October 17, 1995 correspondence and building permits issued by the Town of Davie, Teen Challenge invested approximately \$75,000.00 in order to modify the structure located on the Subject Property. The modifications were required and approved by building officials of the Town of Davie.

. Teen Challenge's reliance upon the Town of Davie's October 17, 1995 correspondence and building permits subsequently issued for the improvement of the property was reasonable under the circumstances.

. On July 1, 1996, a citizen of the Town of Davie submitted an administrative appeal to the Town Administrator, challenging the planning and zoning staff's interpretation regarding Teen Challenge's location in the R-1 zoning district.

. On August 14, 1996, the Town of Davie determined that since Teen Challenge was not licensed by the State of Florida, it did not meet the requirements to be located in the Town's R-1 zoning district.

. Teen Challenge holds an exemption from licensure to provide substance abuse services pursuant to Florida Statutes §397-405(8).

. The Town of Davie has subsequently refused to issue Teen Challenge a certificate of occupancy or an occupational license to allow Teen Challenge to operate a residential program for up to sixteen adult women at the Subject Property.

. The Town of Davie's Director of Development Services (Michele Mellgren) and Senior Planner (Matthew Wood) made verbal and written representations that Teen Challenge's proposed use of the Subject Property was lawful.

. The Town of Davie through its Director of Development Services, Senior Planner and building officials represented to Teen Challenge that its proposed use of the Subject Property was lawful and required Teen Challenge to modify the subject property in order to permit such use. In addition, the Town of Davie required and issued building permits necessary to effect the modifications and improvements necessary to the proposed use of the Subject Property.

. Teen Challenge detrimentally relied on these representations by expending approximately \$200,000.00 to purchase the Subject Property and an additional \$75,000.00 to improve the Subject Property. Teen Challenge's reliance on these representations was reasonable under the circumstances.

. The Town of Davie is equitably estopped to deny the lawfulness of Teen Challenge's use of the Subject Property as a residential program for adult women.

. The Petition for Declaratory Relief sought by Teen Challenge is granted upon the grounds of equitable estoppel. The Town of Davie is ordered to issue Teen Challenge a certificate of occupancy and an occupational license so as to permit Teen Challenge to operate a residential program for adult women, in the manner described at the trial of this action, for up to twelve residents at 13601 S.W. 26th Street, Davie, Florida 33325, as currently constructed and up to a maximum occupancy of sixteen residents subject to Teen Challenge's compliance with all building and fire safety code requirements.

. The Court reserves jurisdiction to enforce this partial final judgment.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this _____ day of _____, 1999.

MIETTE K. BURNSTEIN
CIRCUIT COURT JUDGE

Copies Furnished:
Stuart J. Mac Iver, Esquire
Michael T. Burke, Esquire